

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-89193; File No. SR-FICC-2020-006)

June 30, 2020

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Provide for a Passive Acknowledgement Process and Make Other Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 19, 2020, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the FICC Government Securities Division (“GSD”) Rulebook (“GSD Rules”) and the FICC Mortgage-Backed Securities Division (“MBSD” and together with GSD, each, a “Division”) Clearing Rules (“MSBD Rules,” and together with the GSD Rules, “Rules”)³ in order to (i) provide for a passive acknowledgement process whereby any settling bank that does not timely acknowledge that it will settle its Funds-Only (Cash) Settlement Figures (as defined below) with FICC (i.e., acknowledge its intention to pay to or collect from FICC), or

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms not defined herein are defined in the Rules, available at <http://www.dtcc.com/legal/rules-and-procedures>.

notify the Settlement Agent (as defined below) of its refusal to settle for one or more members⁴ for which it is the designated Funds-Only Settling Bank or Cash Settling Bank (collectively, “FICC Settling Banks”) and has not otherwise been in contact with the Settlement Agent, would be deemed to have acknowledged its Funds-Only (Cash) Settlement Figures, (ii) codify FICC’s discretion to exclude a FICC Settling Bank’s balance from the FRB’s National Settlement Service (“NSS”) file in certain circumstances, and (iii) make certain technical and conforming changes.

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to (i) provide for a passive acknowledgement process whereby any FICC Settling Bank that does not timely

⁴ The use of “members” here refers to any participant that is required to appoint a Funds-Only Settling Bank or Cash Settling Bank, which includes GSD Netting Members, GSD CCIT Members, GSD Sponsoring Members, and MBSD Clearing Members. References hereinafter to the term “members” shall be used for ease of reference. See GSD Rule 13, Section 4(a) and MBSD Rule 3A, Section (a), supra note 3.

acknowledge that it will settle its Funds-Only (Cash) Settlement Figures (as defined below) with FICC (i.e., acknowledge its intention to pay to or collect from FICC), or notify the Settlement Agent (as defined below) of its refusal to settle for one or more members for which it is the designated FICC Settling Bank and has not otherwise been in contact with the Settlement Agent, would be deemed to have acknowledged its Funds-Only (Cash) Settlement Figures, (ii) codify FICC's discretion to exclude a FICC Settling Bank's balance from the NSS file in certain circumstances, and (iii) make certain conforming technical and conforming changes.

Background

Each Division provides a standardized, automated method for settling funds-only and cash settlement obligations, respectively, between each Division and its respective members' FICC Settling Banks. The funds-only settlement service of GSD and the cash settlement service of MBSD eliminate manual processing and reduce costs by aggregating, for GSD, the funds-only settlement payments and, for MSBD, the cash settlement payments due to or from a member, and then, automatically debiting or crediting such member's account at its FICC Settling Bank. Settlement is effected via the NSS.⁵

Current Process

Each member must designate a FICC Settling Bank to settle its funds-only (cash) obligations with FICC. Today, on each business day, as applicable, GSD and MBSD each calculates either a Funds-Only Settlement Amount or Cash Balance figure, respectively, for each member, and reports to its members and their respective FICC

⁵ GSD Rule 13, Section 5(i) and MBSD Rule 11, Section 9(i), supra note 3.

Settling Banks, a Net Funds-Only Settlement Figure⁶ (for GSD) and either a Total Debit Cash Balance Figure⁷ or a Total Credit Cash Balance Figure⁸ (for MBSD) (collectively, “Funds-Only (Cash) Settlement Figures”).⁹ The Depository Trust Company (“DTC”) acts as Settlement Agent (“Settlement Agent”)¹⁰ for FICC’s funds-only (cash) settlement process. Once the FICC Settling Banks receive their Funds-Only (Cash) Settlement Figures from the Settlement Agent, the FICC Settling Banks must submit either their (1) acknowledgement that they will settle their Funds-Only (Cash) Settlement Figures

⁶ Net Funds-Only Settlement Figure means the net amount of the Funds-Only Settlement Amounts of the Netting Members for which a Funds-Only Settling Bank Member is acting. GSD Rule 1, supra note 3.

⁷ Total Debit Cash Balance Figure means the sum of the Cash Balances which are debits of the Members for which a Cash Settling Bank Member is acting. MSBD Rule 1, supra note 3.

⁸ Total Credit Cash Balance Figures means the sum of the Cash Balances which are credits of the Members for which a Cash Settling Bank Member is acting. MSBD Rule 1, supra note 3.

⁹ For GSD, Funds-Only Settlement Amounts reflect: (i) changes in the value of securities when they are marked to market, (ii) cash adjustments related to securities trades, (iii) the pass-through of coupon payments for term repos or trade obligations that cross a coupon date, and (iv) other items, such as billing invoices. GSD Rule 13, Section 1, supra note 3. For MBSD, Cash Settlement amounts reflect: (i) the TBA Transaction Adjustment Payment, (ii) Net Pool Transaction Adjustment Payment, (iii) principal and interest payments for failing net pool settlement obligations (to the extent that they are not handled by the FedWire Securities Service Automated Claims Adjustment Process), and (iv) other items, such as Factor Update Adjustments and billing invoices. MBSD Rule 11, Section 7, supra note 3.

¹⁰ DTC Settlement Operations act as the Settlement Agent for GSD and MBSD. “Settlement Agent” means the bank or trust company that FICC may, from time to time, designate to act as its agent for purposes of interfacing with NSS for funds-only settlement pursuant to GSD Rule 13 (for GSD) and for Cash Settlement pursuant to MBSD Rule 11. GSD Rule 1 and MBSD Rule 1, supra note 3.

with FICC or (2) refusal to settle such amounts on behalf of one or more of their respective members.¹¹ This acknowledgement or refusal submission occurs through a designated terminal system.¹² If all of the FICC Settling Banks submit acknowledgements of their intent to settle, then the Settlement Agent will submit the requisite file to the FRB for processing through the NSS.

If a FICC Settling Bank notifies the Settlement Agent that the FICC Settling Bank refuses to pay the Funds-Only (Cash) Settlement Figure for a member, then FICC will exclude that member's amount and the Settlement Agent will provide the FICC Settling Bank with a new Funds-Only (Cash) Settlement Figure that no longer includes the excluded member's amount. The FICC Settling Bank must then immediately send a message to the Settlement Agent acknowledging the new amount.¹³ The Settlement Agent will then submit the requisite file to the FRB for processing through the NSS.

The deadline for FICC Settling Banks to acknowledge or refuse is 30 minutes prior to the time at which debits and credits are executed via the NSS.¹⁴ If a FICC Settling Bank does not acknowledge or refuse by this time, the Settlement Agent will use

¹¹ Currently, a FICC Settling Bank that settles only for itself may not refuse to settle for itself and, therefore, may opt out of the requirement to acknowledge its Funds-Only (Cash) Settlement Figures. GSD Rule 13, Section 5(b) and MBSB Rule 11, Section 9, supra note 3. The passive acknowledgement proposal, explained in Item 3(a)(i) below, would not apply to such FICC Settling Banks that have chosen to opt out, as further explained below.

¹² GSD Rule 13, Section 5(b) and MBSB Rule 11, Section 9(b), supra note 3.

¹³ GSD Rule 13, Section 5(c) and MBSB Rule 11, Section 9(c), supra note 3.

¹⁴ For GSD, the NSS execution times are 10:00 a.m. and 3:15 p.m.; for MBSB, these times are 10:00 a.m. and 2:45 p.m. GSD Schedule of Timeframes, supra note 3, and MBSB Processing Schedule and Timeframes, available at <http://www.dtcc.com/clearing-services/ficc-mbsd/ficc-mbsd-user-documentation>.

the most recent contact information available to contact the FICC Settling Bank. If the Settlement Agent is unable to contact the FICC Settling Bank or does not receive a response from the FICC Settling Bank as to the acknowledgement or refusal, FICC needs to determine whether to request an NSS extension while also determining whether to remove the FICC Settling Bank's Funds-Only (Cash) Settlement Figure from the NSS file.

Today, failure of a FICC Settling Bank to timely respond to the Settlement Agent after posting of final settlement figures creates uncertainty with respect to timely completion of settlement at FICC. This is because today, FICC is not permitted under the Rules to submit the NSS file (through the Settlement Agent) unless all FICC Settling Banks in the file have acknowledged. FICC must therefore determine whether it should remove the Funds-Only (Cash) Settlement Figure of the unresponsive FICC Settling Bank from the NSS file in order to allow the processing of the rest of the NSS file for the other FICC Settling Banks that are part of the NSS file. If FICC does not remove the Funds-Only (Cash) Settlement Figure of the unresponsive FICC Settling Bank from the NSS file, then the NSS file cannot be created and the funds-only (cash) settlement cannot be completed for the other FICC Settling Banks that are part of the NSS file. As such, today, FICC may need to remove the Funds-Only (Cash) Settlement Figure of the unresponsive FICC Settling Bank from the NSS file in order to submit the NSS file and complete the funds-only (cash) settlement for the other FICC Settling Banks that are part of the NSS file, thus potentially delaying settlement of the NSS file. Such potential delay would arise from the time needed to remove the figure of the unresponsive FICC Settling Bank and then re-establish the NSS file. Moreover, with respect to the members who

were using the particular FICC Settling Bank, FICC would need to settle individually with those members via the Fedwire Funds Service, which also presents the possibility of a delay because of the time it might take to complete this process individually with each affected member. To date, FICC has not had to perform the process of removing a FICC Settling Bank from the NSS file.

The proposed passive acknowledgement process that is discussed in Item 3(a)(i) below is aimed at addressing the situation discussed above where a FICC Settling Bank is unresponsive and cannot be reached. This would allow FICC to submit the NSS file (through the Settlement Agent) for NSS processing more timely, and thereby allow the funds-only (cash) settlement to be completed for the other FICC Settling Banks that are part of the NSS file.

Even with the implementation of the proposed passive acknowledgement process discussed in Item 3(a)(i) below, FICC must retain the discretion to remove the Funds-Only (Cash) Settlement Figure of a FICC Settling Bank from the NSS file.¹⁵ In other words, currently, FICC may remove the FICC Settling Bank's figure from the NSS file in the situation where a FICC Settling Bank is unresponsive and cannot be reached. Under the proposal, the need for FICC to do so would arise in the event that a FICC Settling Bank advises the Settlement Agent that it cannot yet determine whether to acknowledge or refuse. In such a circumstance, passive acknowledgement would not apply (as described below); however, as it gets closer to the NSS processing time, FICC may need to remove the FICC Settling Bank's Funds-Only (Cash) Settlement Figure from the NSS file in order to allow funds-only (cash) settlement to be completed for the other FICC

¹⁵ This practice is currently not codified in the GSD Rules and MBSB Rules.

Settling Banks that are part of the NSS file and have affirmatively acknowledged their figure. FICC is proposing to codify its ability to remove the Funds-Only (Cash) Settlement Figure of the FICC Settling Bank from the NSS file. As FICC would be codifying this current practice with this proposed rule change, this proposed rule change would not change the current settlement process of FICC Settling Banks that are excluded from the NSS file. This proposed change is discussed in Item 3(a)(ii) below.

(i) **Proposed change to introduce passive acknowledgement process for FICC Settling Banks**

Proposed Passive Acknowledgement Process

FICC proposes to establish an “Acknowledgement Cutoff Time” after which FICC would apply the passive acknowledgement process if it is unable to reach the FICC Settling Bank.

The Acknowledgement Cutoff Time would be defined as the later of: (i) 30 minutes after the FICC Settling Banks have been notified that such payment is due or (ii) 30 minutes prior to the times established by FICC¹⁶ for the execution of funds-only (cash) settlement debits and credits via NSS.

If a FICC Settling Bank does not submit either (1) an acknowledgement that it will settle the Funds-Only (Cash) Settlement Figure with FICC or (2) a refusal to pay the Funds-Only (Cash) Settlement Figure by the “Acknowledgement Cutoff Time” and has not been in contact with the Settlement Agent, then the Settlement Agent would attempt to contact the FICC Settling Bank. If the Settlement Agent is able to contact the FICC Settling Bank and it notifies the Settlement Agent that the FICC Settling Bank cannot, at

¹⁶ These times are currently 10:00 a.m. and 3:15 p.m. for GSD, and 10:00 a.m. and 2:45 p.m. for MBSD.

that time, submit its acknowledgement or refusal to pay its Funds-Only (Cash) Settlement Figure and that it needs more time, then the FICC Settling Bank would not be deemed to have acknowledged that it will settle such Funds-Only (Cash) Settlement Figure with FICC. However, if the FICC Settling Bank cannot be reached, then the FICC Settling Bank would be deemed to have acknowledged that it will settle such Funds-Only (Cash) Settlement Figure with FICC.

The passive acknowledgement process described herein would also apply in situations where a FICC Settling Bank is provided with a new Funds-Only (Cash) Settlement Figure after such FICC Settling Bank's refusal to pay the Funds-Only (Cash) Settlement Figure for one or more members.

FICC would also revise the Rules to state that each FICC Settling Bank must ensure that it maintains accurate contact details with the Settlement Agent so that the Settlement Agent may contact the FICC Settling Bank regarding this settlement process and any settlement issues.

Proposed Changes to GSD Rule 13, Section 5 and MBSD Rule 11, Section 9

The proposed passive acknowledgement process will require changes to Section 5 of GSD Rule 13 and Section 9 of MBSD Rule 11. Specifically, FICC proposes to amend Section 5(b) of GSD Rule 13 to replace "by the applicable deadline" with "By the Acknowledgement Cutoff Time," and move this phrase to the start of the first sentence. Section 5(b) would be further amended to add a sentence stating what the Acknowledgement Cutoff Time would be, that is the later of (i) 30 minutes after the Funds-Only Settling Bank has been notified that such payment is due, or (ii) 30 minutes prior to the payment deadlines established by FICC. FICC also proposes to add a phrase

at the end of Section 5(b) that would apply to Funds-Only Settling Banks that settle solely for their own accounts to state that if they choose to opt out of having to acknowledge their Funds-Only Settlement Amounts, new subsections (k) and (l) (described below) would not apply to them.¹⁷ The same changes would be made to Section 9(b) of MBSD Rule 11.

FICC proposes to amend Section 5(c) of GSD Rule 13 to delete the word “immediately” and to state that new subsection (k) would apply with respect to the new Net Funds-Only Settlement Figures of the Funds-Only Settling Bank that sent refusal messages. Similar changes would be made to Section 9(c) of MBSD Rule 11.

FICC proposes to amend Section 5 of GSD Rule 13 to add new subsection (i). Proposed subsection (i) would provide that the Settlement Agent uses the most recent contact information provided by the Funds-Only Settling Bank to the Settlement Agent. Proposed subsection (i) would also include a requirement that each Funds-Only Settling Bank maintains up-to-date and accurate contact details with the Settlement Agent on an ongoing basis. A similar subsection (i) would be added to Section 9 of MBSD Rule 11.

FICC proposes to amend Section 5 of GSD Rule 13 to add new subsection (l). Proposed subsection (l) would provide that the Settlement Agent would attempt to contact the Funds-Only Settling Bank if no acknowledgement or notice of refusal to settle

¹⁷ Proposed subsections (k) and (l) describe the proposed passive acknowledgement process. As described above, if a FICC Settling Bank that settles solely for its own account opts to not to acknowledge its own Funds-Only Settlement Figure, the passive acknowledgement process would not apply to such FICC Settling Banks because such FICC Settling Banks cannot refuse to settle for their own accounts. For operational convenience, FICC Settling Banks may choose to not acknowledge their own Funds-Only Settlement Figure because they cannot refuse to settle for their own accounts. Therefore, proposed subsections (k) and (l) would not apply to such FICC Settling Banks.

on behalf of one or more Netting Members for which it is designated as the Funds-Only Settling Bank is received by the Acknowledgement Cutoff Time. If (i) the Settlement Agent is able to contact the Funds-Only Settling Bank and (ii) the Funds-Only Settling Bank notifies the Settlement Agent that it cannot, at that time, acknowledge or refuse their Net Funds-Only Settlement Figure, then the Funds-Only Settling Bank will not be deemed to have acknowledged its Net Funds-Only Settlement Figure. If the Funds-Only Settling Bank cannot be reached, the Funds-Only Settling Bank will be deemed to have acknowledged its Net Funds-Only Settlement Figure. FICC would also state that this proposed subsection (1) would not apply to a Funds-Only Settling Bank that settles solely for its own account and opts not to acknowledge its Net Funds-Only Settlement Figure. A similar subsection (1) would be added to Section 9 of MBSD Rule 11.

(ii) **Proposed change to allow FICC to exclude FICC Settling Bank balance from NSS file**

The proposed rule change would provide that if (1) passive acknowledgement does not apply because the FICC Settling Bank has notified the Settlement Agent that it cannot yet acknowledge or refuse its Funds-Only (Cash) Settlement Figure and (2) the payment deadline established by FICC is approaching, then FICC would have the ability to exclude the FICC Settling Bank's Funds-Only (Cash) Settlement Figure from the NSS file. This would allow funds-only (cash) settlement to be completed for the other FICC Settling Banks that are part of the NSS file. As described above, as it gets closer to the payment deadline, FICC may need to remove the FICC Settling Bank's Funds-Only (Cash) Settlement Figure from the NSS file in order to allow funds-only (cash) settlement to be completed for the other FICC Settling Banks that are part of the NSS file. As FICC would be codifying its current practice with this proposed rule change, this proposed

change would not change the current settlement process of FICC Settling Banks that are excluded from the NSS file.

This proposed change is reflected in the second paragraph of new subsections (l) of Section 5 of GSD Rule 13 and Section 9 of MBSD Rule 11.

(iii) Proposed technical and conforming changes

FICC proposes to make certain technical changes. Specifically, to enhance clarity, FICC proposes to move current subsection (d) in GSD Rule 13, Section 5 to become proposed subsection (h) of GSD Rule 13, Section 5. In addition, FICC proposes to move current subsection (d) in MBSD Rule 11, Section 9 to become proposed subsection (h) of MBSD Rule 11, Section 9.

FICC also proposes to make certain conforming changes. For example, FICC proposes to revise the subsection numbers in GSD Rule 13, Section 5 and MBSD Rule 11, Section 9 because subsections were either proposed to be moved (as described in the preceding paragraph) or added. As another conforming change, FICC proposes to revise GSD Rule 1 and MBSD Rule 1 to add a new defined term (“Acknowledgement Cutoff Time”).

FICC proposes to replace the first two references to Corporation with Settlement Agent in GSD Rule 13, Section 5(c). Similarly, FICC proposes to replace the reference to Corporation with Settlement Agent in MBSD Rule 11, Section 9(c). FICC believes these proposed changes would enhance accuracy and clarity when describing who the FICC Settling Banks must send a message to. In addition, in current subsection (j) (which is proposed to become subsection (m)) of Section 5 of GSD Rule 13, FICC would replace language regarding the “Corporation’s Operations area” with the “Settlement Agent” and

would use the newly defined term “Acknowledgement Cutoff Time.” Similar changes would be made to current subsection (j) (which is proposed to become subsection (m)) of Section 9 of MBSD Rule 11.

FICC also proposes to change the reference from “DTC” to “the Settlement Agent” in GSD Rule 13, proposed Section 5(n) and MBSD Rule 11, proposed Section 9(n) for consistency and clarity.

2. Statutory Basis

FICC believes this proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, FICC believes this proposal is consistent with Section 17A(b)(3)(F) of the Act.¹⁸

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.¹⁹ By way of background, the funds-only (cash) settlement process at FICC reflects debits and credits of payments (such as mark-to-market) that are associated with securities transactions that will ultimately be subject to securities settlement. FICC believes that failure by a FICC Settling Bank to timely acknowledge that it will settle its Funds-Only (Cash) Settlement Figure with FICC or to refuse to pay its Funds-Only (Cash) Settlement Figure creates uncertainty with respect to the timely completion of funds-only (cash) settlement at FICC. FICC believes that the introduction of the proposed passive acknowledgement process described in Item 3(a)(i) above would help promote the prompt and accurate clearance and settlement of securities transactions in circumstances

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

¹⁹ Id.

where a FICC Settling Bank has not responded by the Acknowledgement Cutoff Time and cannot be reached by the Settlement Agent. In such circumstances, as described above, FICC would deem that such FICC Settling Bank has acknowledged that it will settle its Funds-Only (Cash) Settlement Figures. This would enable FICC to submit the NSS file (through the Settlement Agent) as is for processing in a timely manner, and thereby enhance certainty with respect to the timely completion of settlement. Timely completion of such settlement at FICC for as many members as possible promotes the prompt and accurate clearance and settlement of securities transactions as a general matter, because the funds-only (cash) settlement process at FICC involves debits and credits, such as the mark-to-market on securities transactions that will ultimately be subject to securities settlement. As such, FICC believes the proposed change to introduce the passive acknowledgement process described in Item 3(a)(i) above is designed to promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.²⁰

FICC also believes that the proposal to codify FICC's ability to exclude a FICC Settling Bank's balance from the NSS file described in Item 3(a)(ii) above is designed to promote the prompt and accurate clearance and settlement of securities transactions.²¹ If a FICC Settling Bank notifies the Settlement Agent that it cannot yet acknowledge or refuse, FICC would not be able to submit the NSS file (through the Settlement Agent) with that FICC Settling Bank's Funds-Only (Cash) Settlement Figure included. If the FICC Settling Bank does not ultimately respond with either an acknowledgement or

²⁰ Id.

²¹ Id.

refusal, then FICC must have the ability to exclude such FICC Settling Bank's Funds-Only (Cash) Settlement Figure from the NSS file. In this way, funds-only (cash) settlement can be completed for all other members. Therefore, FICC believes the proposed changes described in Item 3(a)(ii) above is designed to promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.²²

FICC also believes that the proposed rule changes to make the technical and conforming changes, as described in Item 3(a)(iii) above, are designed to promote the prompt and accurate clearance and settlement of securities transactions by ensuring that the Rules remain clear and accurate to members and that members understand the funds-only settlement service and cash settlement service. Having clear and accurate Rules would facilitate members' understanding of those rules and provide members with increased predictability and certainty regarding their obligations. As such, FICC believes these proposed changes would promote the prompt and accurate clearance and settlement of securities, consistent with Section 17A(b)(3)(F) of the Act.²³

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the proposed rule changes described in Item 3(a)(i) above to introduce the passive acknowledgement process for FICC Settling Banks would have any impact on competition,²⁴ because the proposed passive acknowledgement process would not have an impact on the FICC Settling Banks' current ability to timely

²² Id.

²³ Id.

²⁴ 15 U.S.C. 78q-1(b)(3)(I).

acknowledge their Funds-Only (Cash) Settlement Figures, as it is intended to address situations where a FICC Settling Bank is not responding and cannot be reached. Moreover, as described above, FICC would continue to maintain flexibility and allow a FICC Settling Bank to request extra time if the FICC Settling Bank cannot affirmatively submit its (1) acknowledgement that it will settle its Funds-Only (Cash) Settlement Figure with FICC or (2) refusal to pay its Funds-Only (Cash) Settlement Figure, as long as the Settlement Agent is notified at or before the Acknowledgement Cutoff Time. If a FICC Settling Bank notifies the Settlement Agent that the FICC Settling Bank cannot, at that time, submit its acknowledgement that it will settle its Funds-Only (Cash) Settlement Figures with FICC or its refusal to pay its Funds-Only (Cash) Settlement Figures, then the FICC Settling Bank would not be deemed to have acknowledged that it will settle such Funds-Only (Cash) Settlement Figures with FICC. Therefore, FICC believes that the proposed passive acknowledgement process described in Item 3(a)(i) above would not have any impact on competition.

FICC also does not believe that the proposed changes to exclude a FICC Settling Bank's balance from the NSS file, as described in Item 3(a)(ii) above, would have any impact on competition²⁵ because this proposal, if invoked, would require the affected FICC Settling Bank to send payment to FICC by wire, which is an alternate form of payment already available to the FICC Settling Banks. FICC believes that ready availability of a reasonable payment alternative would result in the rights and obligations of the FICC Settling Banks not being adversely affected. As such, FICC does not believe

²⁵ Id.

that the proposed changes to exclude a FICC Settling Bank's balance from the NSS file, as described in Item 3(a)(ii) above, would have any impact on competition.

FICC also does not believe that the proposed rule changes to make the technical and conforming changes described in Item 3(a)(iii) above would have an impact on competition.²⁶ These changes would simply provide additional clarity within the Rules and not affect members' rights and obligations.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments relating to the proposed rule change have not been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

²⁶ Id.

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FICC-2020-006 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

All submissions should refer to File Number SR-FICC-2020-006. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information

from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FICC-2020-006 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

J. Matthew DeLesDernier
Assistant Secretary

²⁷ 17 CFR 200.30-3(a)(12).